

Schedule of fees

The scheduling of the fees has been misnamed as the royalty on direct use. This was to be a schedule of royalty due at a given temperature instead of a schedule of fees. This would be a schedule of royalties on the consumption of BTU at any given temperature which was to replace the metering and totalizing numbers that MMS and BLM utilized for nine years that was not satisfactory for the computation of the amount of BTU utilized and classified as royalty. Formula for this schedule is exactly the way royalty was computed prior to EP Act.

The other comment is reference to the using of rental towards royalties. In that the fee schedules that you refer to is nothing more than a schedule of royalties. Therefore royalties are a deductible item from the rent that is paid in advance as per the EP Act that states all royalties shall be applied to the rental.

Third comment involves the computation of the BTU content of coal which is the method arrived at as the valuation of Powder River Coal. In the formula that is computed the efficiency of burning coal is an added cost to this formula and has no bearings as the value of the BTU content of the coal vs. the BTU content of the water. This is a hypothetical calculation that has no merits and that does not give a true representation of the BTU content of the water in the geothermal resource. This also adds to the royalty value and escalating the price or the royalty required on direct use by some thirty-five percent.

Under Energy Policy Act subtitle B Geothermal Energy Direct Use

The Department of Interior Secretary is given broad discussion in the application of this act. With the goals of encouraging development of the resource with the final regulation being to provide a lease with simplified administrative systems and a fair return to the government on the royalty of direct use of geothermal resource, to contribute a substantial economic development opportunities in the area. The act calls for a schedule of fees supposedly in lieu of royalty. The fees were to be computed on the consumption of the temperature and the volume of the water. This can be nothing more than a royalty because it is computed on the exact basis that previous royalty was computed. This schedule was to be for the simplification of metering to make it more efficient and simple for the administration. In that direct use is on an intermittent production schedule and off-seasons, it was anticipated that the schedule would be a more practical application and simplification by using one totalizing meter and one input temperature. This then would be applied to the schedule to determine the amount owed for production of the geothermal resource. This was discussed at length in the sub-committee on the royalty policy committee and that it was also computed on exactly the same formula as previously computed. The only thing simplified as I stated before that there was no complicated metering necessary as was the problems with previous direct use operation and using coal instead of natural gas. Not only was this discussed in the sub-committee but also on MMS's own summary they refer to the schedule of royalties then naming a schedule of fees. I feel that this is an error. That the goal was to have a simplified system and with the schedule of royalties definitely simplifies the computation of the amount of royalty owed to the government each month, again in all of the discussions on the schedule it was always a schedule of royalties not a schedule of fees. A fee is a one-time payment with no limits on utilization. It has to be an amount consumed and then pay according to the amount consumed with the royalty of the schedule. Enclosed are the three sheets of the subcommittee's determination on the direct use and a scheduling of the royalty as well as a copy of the summary of the MMS proposed rules and regulations.

Conclusions

Conclusions of the proposed regulations that:

If the leases are a class 1, 2, or 3, The lessee would not be permitted to produce electricity on a class 3 lease. The confusion and use of direct use and electrical would certainly be a conflict between the values and the payments of royalty. For a direct use operation that would pay not only the rental but also have to pay a royalty which would make the total cost of the lease astronomical and almost with the old schedule of exhorbent rates for production of direct use. The EP Act specifically states that the rental shall be credited to the royalty. Royalty on direct use is three times the amount of electricity royalty if BTU consumption was measured of both. If no credit of royalty for rental it would be ten times.

This is not a fair return to the government

MMS should:

- Call Fee Schedule, Schedule of Royalty
- Credit Royalty against rental
- Omit the efficiency on using coal as alternative fuel